

Congressional intent that the Commission adopt regulations that ensure participation in PCS by rural telephone companies.

INS recommends that consortia permitted to bid upon Channels C and D be composed wholly of designated entities. Anything less would allow entities for whom Congress mandated no special preference to obtain access to the set-aside channels. This would not be in keeping with the goals of Congress.

V. DEFINING BUSINESSES OWNED BY WOMEN OR MINORITIES

The Commission requested comment on whether women and minority backed applicants wishing to qualify for special treatment should be at least 50.1 percent owned by women or minorities or whether simple control is sufficient, and on how to avoid attempts to use members of designated entities purely for the purpose of receiving special treatment.⁴³ INS recommends that the Commission institute a 50.1 percent equity ownership requirement for applicants requesting special treatment for minority or female ownership. If this requirement is instituted it will serve as a means of avoiding the use of women or minorities as window dressing designed only to obtain special treatment.

Because Congress intended businesses owned by women or minorities to receive special consideration, the Commission should allow only those enterprises where women or minorities have a 50.1 percent or greater equity stake to bid upon Channels C and D or to receive other special treatment. The legislation mandates that in determining eligibility for licenses, the Commission shall

⁴³ NPRM at ¶¶ 77 and 78.

"disseminate licenses among . . . businesses owned by members of minority groups and women."⁴⁴

Because of past Commission experience in the broadcast context, and because of the specific legislative directive, INS proposes that the Commission define "ownership" by women or members of minority groups to encompass at least 50.1 percent equity ownership. Simple possession of voting shares alone, without an equity stake or actual control, can too easily hide where the real control of a licensee lies.

The past history of "integration" credit for applicants in the broadcast licensing process provides ample warning for what the Commission should avoid in awarding licenses for PCS. Numerous commentators and critics warned against and found abuses in the process. One concern at the time of broadcast comparative hearings was that despite the possession of voting control by persons who pledged integration⁴⁵ and by minority or women shareholders, the true applicants were the non-voting shareholders who supplied the capital.⁴⁶

The way it worked was that applicants who held voting control in a company and who pledged to work at a radio or television station if they were awarded a license were considered

⁴⁴ Pub. L. 103-66, Title VI, 107 stat. 312 (emphasis added).

⁴⁵ FCC's Competitive Process is a Sham and a Shambles, Broadcasting Vol. 113, page 22, Oct. 5, 1987.

⁴⁶ See A Minority Preference Commentary, Broadcasting Vol. 117, No. 16, page 25, Oct. 16, 1989; Sonrise, Sikes May Drive Reform of Comparative License, Broadcasting Vol. 117, No. 7, page 57, Aug. 14, 1989.

"integrated."⁴⁷ Integration credit was awarded in proportion to their voting control. Accordingly, if an individual who held 30 percent of the voting stock of the applicant promised to work at the station full time, the applicant received 30 percent integration credit. If all voting shareholders promised to work at the station full time, the applicant received 100 percent integration credit. If any individuals were women or minorities, the application was considered enhanced. However, those who promised integration did not necessarily have control of the applicant because they tended to depend heavily on the non-voting shareholders for funding to proceed, first, with the application, and then with construction and operation of the station.⁴⁸

The statute says that special consideration should be accorded for "ownership," which means that just having someone up front should not count. Voting control, management positions, and minority stakes are not ownership. Ownership should be defined as a majority equity interest. Allowing less than 50.1 percent ownership would encourage applicants to include women or minorities in some nominal fashion and would, in actuality, lessen the opportunities of applicants that are truly owned and controlled by women or minorities.

CONCLUSION

Iowa Network Services, Inc. applauds the Commission's decision to set aside 30 MHz of spectrum for bidding only by rural telephone

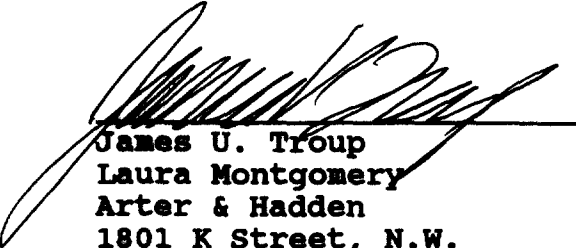
⁴⁷ FCC's Competitive Process is a Sham and a Shambles, Broadcasting at 22.

⁴⁸ Id. at 24.

companies, small businesses, or businesses owned by women or minorities. INS requests that the Commission carefully consider its definitions of these designated entities. A rural telephone company is one that operates local exchanges serving populations of 10,000 or fewer persons. A small telephone company is one with 50,000 or fewer access lines and annual revenues from regulated telecommunications operations of less than \$40 million, or with 1,500 or fewer employees. And preferences should only be accorded to businesses where women or minorities hold an equity stake of at least 50.1 percent.

So long as consortia are composed solely of designated entities, INS supports the Commission's proposal that group bidding be allowed within the set-aside channels. Group bidding will increase the ability of smaller companies to attract capital and achieve the kind of economies of scale that will allow their endeavors to succeed.

Respectfully submitted,
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